REMARKS

Applicants add claims 18-19. Claims 1-19 are now pending in the application. Applicants amend claims 1-6, 8, 10, 12-15 and 17 for clarification, and add new claims 18-19 to round out the scope of the invention. Applicants refer to Figs. 2-3, 19, and 25, and their corresponding description in the specification for exemplary embodiments of and support for the claimed invention. No new matter has been added.

Claims 1-3 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,754,221 to Whitcher et al.; claims 4-5 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of U.S. Patent No. 6,760,309 to Rochberger et al.; claims 6 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of U.S. Patent No. 6,868,094 to Bordonaro et al.; claims 7 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of Bordonaro et al. and further in view of U.S. Patent No. 6,816,464 to Scott et al.; claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of Rochberger et al. and further in view of Scott et al.; and claims 12-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitcher et al. in view of Scott et al.; and claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Whitcher et al. in view of Scott et al. and further in view of U.S. Patent No. 6,466,548 to Fitzgerald. Applicants amend claims 1-6, 8, 10, 12-15 and 17 in a good faith effort to clarify the invention as distinguished from the cited references, and respectfully traverse the rejections.

Whitcher et al. describe, as shown in Fig. 1 thereof, a gateway system for communicating telecommunication information between a telecommunication network 12 and customer

premises equipment 14, the system selecting a compression algorithm according to an available bandwidth. As shown in Fig. 2 of Whitcher et al., the management module 100 determines a bandwidth available to communicate the telecommunication information to the customer premises equipment 14, and selects a compression algorithm according to the available bandwidth.

Whitcher et al. also describe, on col. 8, lines 57-81, the management module 100 assigning 64 kilobits per second time slots to each subscriber serviced by gateway 18, and storing subscriber profiles with associations between the assigned time slots and the subscribers in memory 102. Fig. 3 of Whitcher et al. shows a table, stored in memory 102, of customer premises information associating each customer premises equipment with bandwidth and compression information. Thus, it is apparent from Fig. 3 that Whitcher et al. only describe the network-state information (bandwidth) being predetermined for each customer premises equipment 14 and stored in memory 102.

In other words, Whitcher et al., as relied upon by the Examiner, fail to disclose,

> "[a] gateway apparatus which interconnects a first network and an IP network, comprising:
> an encoding processing unit receiving voice data from the first network and generating encoded voice data from the received voice data;
> a packet processing unit creating IP packets of the encoded voice data from the encoding processing unit and transmitting the IP packets to the IP network;
> a network-state estimation unit determining network-state information of the IP network based on IP packets that are received from a second gateway apparatus via the IP network; and
> a determination unit controlling, before the transmission of the IP packets, at least the encoding of the voice data by the encoding processing unit based on the network-state information determined by the network-state estimation unit,

> wherein the IP packets to be transmitted to the IP network are processed according to the network-state information indicating only the state of the IP network, independently of network state of other networks," as recited in claim 1. (Emphasis added)

Advantageously, the claimed invention provides for processing according to network state information, such as packet loss ratio, packet arrival time jitter, TTL value, estimated network delay, and estimated voice data quality level. Whitcher et al. do not disclose the claimed invention.

Accordingly, Applicants respectfully submit that claim 1, together with claims 2-3 dependent therefrom, is patentable over Whitcher et al. for at least the above-stated reasons. Claim 17 incorporates features that correspond to those of claim 1 cited above, and is, therefore, patentable over Whitcher et al. for at least the same reasons. The Examiner relied upon the additional references to specifically address the features recited in the dependent claims. As such, the additions of these references would still have failed to cure the aforementioned deficiencies of Whitcher et al. even assuming, arguendo, that such additions would have been obvious to one skilled in the art at the time the claimed invention was made. Accordingly, Applicants respectfully submit that claims 4-16 are patentable over the cited references, separately and in combination, for at least the foregoing reasons.

The cited references do not disclose or suggest,

> "[a] communication apparatus comprising:
> an encoding processing unit encoding voice data;
> a packet processing unit creating packets through packetizing of the encoded voice data from the encoding processing unit so that the packets are transmitted from the communication apparatus to a second communication apparatus;

a quality level estimation unit determining a quality level based on packets which are received from the second communication apparatus; and

a determination unit controlling the encoding of voice data by the encoding processing unit such that, when a congestion state is detected based on the quality level determined by the quality level estimation unit, a CODEC type having a compression ratio higher than a compression ratio of a CODEC type selected in a non-congestion state is selected for the encoding of voice data by the encoding processing unit," as recited in claim 18. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 18 is patentable over the cited references. Claim 19 incorporates features that correspond to those of claim 18 cited above, and is, therefore, patentable over the cited references for at least the same reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

Dexter T. Chang
Reg. No. 44,071

CUSTOMER NUMBER 026304
Telephone: (212) 940-6384
Fax: (212) 940-8986 or 8987
Docket No.: 100794-11728 (FUJI 19.030)
DTC:bf

84184993_1.DOC